

FREDERICK WILLIAM EVERTS,	)	No. C 09-4857 JSW (PR)
	)	
Petitioner,	)	<b>ORDER DENYING</b>
	)	<b>RECONSIDERATION</b>
vs.	)	
	)	
JAMES YATES, Warden,	)	(Docket No. 14)
	)	
Respondent.	)	
	)	
	)	


This is a habeas corpus case filed pro se by a state prisoner pursuant to 28 U.S.C. § 2254. The petition was denied on its merits. Petitioner has filed a motion to alter or amend the judgment under Rule 59(e) of the Federal Rules of Civil Procedure. A motion for reconsideration under Rule 59(e) "should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the law." *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (citation omitted) (en banc). Petitioner does not submit new evidence or a change in the law. Rather, he argues that the Court committed clear error in finding that burden of proof on the element of intent was not unconstitutionally shifted or lowered by California's scheme for proving insanity. Petitioner has not shown that it is unconstitutional for a state to require a defendant to prove his insanity, whether by a preponderance of the evidence or beyond a reasonable doubt. *See Leland v. Oregon*, 343 U.S. 790, 798-99 (1952); *see Clark v. Arizona*, 548

1 U.S. 735 769, (2006) (citing *Leland*). He also contests the Court's finding that the fact-  
2 finder found Petitioner guilty of all the elements of his offense before making a sanity  
3 determination. That is what the record reflects, however, and his disagreement with the  
4 Court's reading of the record does not establish clear error.

5 Thus, petitioner's motion (docket number 14) is DENIED.

6 IT IS SO ORDERED.

7 DATED: October 26, 2011

8   
9 JEFFREY S. WHITE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

FREDERICK WILLIAM EVERTS,

Case Number: CV09-04857 JSW

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

JANES YATES et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 26, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Frederick W. Everts  
F62994  
Pleasant Valley State Prison  
P.O. Box 8500  
Coalinga, CA 93210

Dated: October 26, 2011



Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk